

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

2008 AUG 26 AM 10:01

SOUTHERN DISTRICT OF CALIFORNIA

'08 MJ 2629

UNITED STATES OF AMERICA,

Plaintiff,

v.

Michael Joseph DEVINE

Defendant.

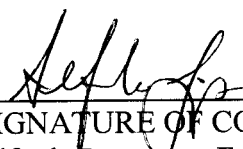
Magistrate Case No. _____

BY XMT DEPUTYCOMPLAINT FOR VIOLATION OF


Title 8, U.S.C., Section
1324(a)(2)(B)(iii)-
Bringing in Illegal Alien
Without Presentation

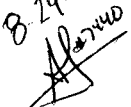
The undersigned complainant being duly sworn states:

On or about **August 24, 2008**, within the Southern District of California, defendant **Michael Joseph DEVINE**, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **Mirna Magaly PEREZ-Moroyoquy, Gabriel PEREZ-Ibarra and Veronica LIMON-Garilla**, had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said aliens, and upon arrival did not bring and present said aliens immediately to an appropriate immigration officer at a designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).


SIGNATURE OF COMPLAINANT
Alfredo Loperena, Enforcement Officer
U.S. Customs and Border Protection

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 26th DAY OF
AUGUST, 2008.


Honorable William McCurine Jr.
UNITED STATES MAGISTRATE JUDGE

DOA 8-24-08


PROBABLE CAUSE STATEMENT

The complainant states that **Mirna Magaly PEREZ-Moroyoquy (MW1), Gabriel PEREZ-Ibarra (MW2) and Veronica LIMON-Garilla (MW3)** are citizens of a country other than the United States; that said aliens have admitted they are deportable; that their testimony is material; that it is impracticable to secure their attendance at trial by subpoena; and that they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.


On August 24, 2008, at approximately 2233 hours, **Michael Joseph DEVINE (Defendant)** made application for admission into the United States from Mexico at the San Ysidro, California Port of Entry vehicle lanes. Defendant was the driver and sole visible occupant of a Black Ford F-250. Upon inspection before a U.S. Customs and Border Protection (CBP) Officer, Defendant gave two negative customs declarations, presented his California Identification, and made an oral claim to United States Citizenship. Upon a cursory search of the vehicle the Primary CBP Officer noticed a blanket in the back cabin area with an irregular surface. The CBP Officer directed Defendant to unlock the rear door. Defendant accelerated forward and attempted to run the port of entry. Defendant stopped the vehicle because the vehicle in front of him stopped thus preventing him from continuing to flee. The CBP Officer instructed Defendant to shut off the vehicle and place his hands on the steering wheel. The CBP Officer while taking custody of Defendant saw several persons concealed by a blanket in the rear cab area. Defendant was escorted to a secure area by CBP Officer and vehicle was driven into secondary by another CBP Officer.

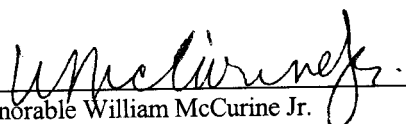
In secondary, other CBP Officers removed two males and four females from the rear cabin area. All the concealed subjects were determined to be undocumented aliens and citizens of Mexico. One male and two females were held as Material Witnesses and are now identified as **Mirna Magaly PEREZ-Moroyoquy (MW1), Gabriel PEREZ-Ibarra (MW2) and Veronica LIMON-Garilla (MW3)**.

During a videotaped interview, Defendant was advised of his Miranda rights. Defendant acknowledged his rights and elected to answer questions without an attorney present. Defendant stated he traveled with a male named Ricky, a mediator to Felipe, a known alien smuggler, to a hotel where he arranged for him to smuggle undocumented aliens. Defendant stated he was to receive the vehicle he was driving and \$200 USD as payment for smuggling the undocumented aliens into the United States. Defendant stated if successful he was to drive and deliver the undocumented aliens to a gas station on H Street in Chula Vista, California. Defendant stated he knew it was illegal to smuggle undocumented aliens into the United States. Defendant stated he successfully smuggled undocumented aliens on three previous occasions.

Probable Cause Statement Continued

During a separate videotaped interview, Material Witnesses declared they are citizens of Mexico with no legal rights or entitlements to enter the United States. MW1 stated her relatives who reside in Tijuana, Mexico made her smuggling arrangements. MW2 and MW3 stated they made their own smuggling arrangements with an unknown male in Tijuana, Mexico. Material Witnesses stated they were to pay fees ranging from an unknown amount to \$4,000 USD to be smuggled into the United States. Material Witnesses stated they were to travel to Los Angeles, California.


SIGNATURE OF COMPLAINANT
Alfredo Loperena, Enforcement Officer
U.S. Customs and Border Protection


Honorable William McCurine Jr.
UNITED STATES MAGISTRATE JUDGE